

Express Mail No. EL248807220US

Docket No. 20722 US1 C038435/0175476

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Rule 1.53 (b) Divisional Application of: )

Beat FLUEHMANN *et al.* )

Parent Serial No.: 09/915,152 )

Parent Filed: July 25, 2001 )

For: **PHYTANIC ACID DERIVATIVE** )  
**COMPOSITIONS AND METHOD OF** )  
**TREATING AND/OR PREVENTING** )  
**DIABETES MELLITUS**

Parent Examiner: K. Weddington

Parent Art Unit: 1614

New York, New York  
January 27, 2004

**REQUEST FOR FILING A RULE 1.53(b) DIVISIONAL APPLICATION**

Mail Stop Patent Application  
Commissioner For Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This is a request for filing an application under 37 CFR § 1.53(b), claiming priority under 35 U.S.C. § 120 to pending U.S. Application Serial No. 09/915,152 filed July 25, 2001.

1. ☒ A copy of the prior application as originally filed in the parent case is enclosed.
2. ☐ Copies of the amendments filed on to "complete" the parent application are enclosed. The undersigned hereby verifies that the enclosed copy of the amendment is a true copy of the amendment as originally filed in the parent case and that the amendment did not introduce impermissible new matter into that application.
3. ☒ The filing fee is calculated below on the basis of the claims in the parent application as originally filed plus or minus any claims added or canceled by amendment:

Claims Filed:				
For	Number Filed	Number Extra	Rate	Basic Fee = \$ 770.00
Total claims	19 - 20 =	0	x \$18 =	\$ 0.00
Independent claims	3 - 3 =	0	x \$86 =	\$ 0.00
Total Filing Fees				\$ 770.00

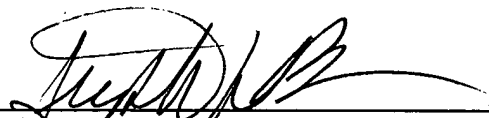
22390 U.S. PTO  
10/766118  
012704

15992 U.S. PTO  
012704

- a. ☒ A check in the amount of **\$770.00** to cover the filing fee is enclosed. If our check is missing or otherwise insufficient, or if any additional fees are required, please charge (or credit any overpayment) to Deposit Account No. 02-4467. A duplicate copy of this paper is enclosed.
- b. ☐ Please charge Deposit Account No. 02-4467 in the amount of \$ \_\_\_\_\_. A duplicate copy of this paper is enclosed.
4. ☒ For this application the Commissioner is hereby authorized to charge payment of the following fees, or to credit any overpayment, to Deposit Account No. 02-4467. A duplicate copy of this paper is enclosed.
- a. ☒ Any additional filing fees required under 37 CFR § 1.16 not otherwise paid by check.
- b. ☒ Any patent application processing fees required under 37 CFR § 1.17 not otherwise paid by check.
- c. ☒ Any additional Assignment recording fees under 37 CFR § 1.21 (h) not otherwise paid by check.
5. ☐ Amend the specification by inserting before the first line, the sentence: - -This is a divisional of U.S. Application Serial No. 09/915,152, filed July 25, 2001.- -
6. ☐ Please cancel claims \_\_\_\_\_ as originally filed before calculating the filing fee.
7. ☒ A Preliminary Amendment is enclosed. Please enter it before calculating the filing fee.
8. ☒ The prior application is assigned of record to ROCHE VITAMINS INC.
9. ☐ The prior application is not assigned. An assignment will follow.
10. ☒ Address all communications to:
- Kevin C. Hooper, Esq.  
BRYAN CAVE LLP  
1290 Avenue of the Americas  
New York, New York 10104-3300  
tel. (212) 541-2000  
fax (212) 541-4630
11. ☒ Drawings are part of this application.
- a. ☐ Transfer the drawings from the parent application to this Rule 1.53(b) application and abandon the parent application as of the filing date accorded this application. A duplicate copy of this paper is enclosed for filing in the parent case.
- b. ☐ \_\_\_\_\_ ( ) sheets of formal drawings are enclosed.
- c. ☒ 7 (seven) sheets of drawings are enclosed.

12. ☒ A Sequence Listing is part of this application.
- a. ☐ A Sequence Listing in paper form in accordance with 37 CFR § 1.821(c) is part of the originally filed application.
- b. ☒ A Request To Transfer Previously Filed Sequence Information Pursuant To CFR § 1.821(e) is enclosed.
13. ☒ Priority is hereby claimed under 35 U.S.C. § 119 based on Application No. **00116848.3**, filed **August 4, 2000** in **Europe**.
- a. ☒ A certified copy of the priority document is already of record in U.S. Application Serial No. 09/915,152 filed July 25, 2001.
- b. ☐ The certified priority document(s) is(are) enclosed herewith for filing in this divisional case.
- c. ☐ Certified copies of the priority document(s) will follow.
14. ☐ A petition for extension of time in the parent application is enclosed so that the parent application will be pending as of the time this paper is filed.

Respectfully submitted,

By:   
Stephen J. Brown  
Registration No. 43,519  
BRYAN CAVE LLP  
1290 Avenue of the Americas  
New York, New York 10104  
(212) 541-2000

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**CERTIFICATE OF EXPRESS MAILING**

"Express Mail" Mailing Label No.: ER 248807220 US  
Date of Deposit: January 27, 2004

I hereby certify that the following:

- [x] Certificate of Express Mailing (1 p)
- [x] Request For Filing A Rule 1.53(b) Divisional Application (3 pp) in duplicate
- [x] Copy of Specification, Claims and Abstract (25 pp)
- [x] Copy of Declaration and Power of Attorney (3 pp) (executed)
- [x] Preliminary Amendment with Exhibit A (21 pp) including duplicate p 1
- [x] Seven (7) Sheets of Drawings (FIGS. 1-7)
- [x] Request To Transfer Previously Filed Sequence Information Pursuant To CFR §1.821(e) (1 p)
- [x] Check for \$770.00 (Filing fee)
- [x] Return postcard

are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on the Date of Deposit indicated above in an envelope addressed to MAIL STOP PATENT APPLICATION, BOX 1450, ALEXANDRIA, VA 22313-1450.

  
Marvin Chisholm  
Signature of person making deposit

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